

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20141251
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: December 11, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 and in accordance with 7 CFR 273.16 and Mich. Admin Code, Rule 400.3130 upon the Department of Human Services' (Department) request for a hearing. After due notice, a hearing was held on December 11, 2013. Respondent did not appear. The record did not contain returned mail. In accordance with Bridges Administration Manual (BAM) 720 the hearing proceeded without Respondent. The Department was represented by [REDACTED] of the Office of Inspector General (OIG).

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) and whether Respondent received a [REDACTED] over-issuance of Food Assistance Program (FAP) benefits from December 1, 2011 to February 29, 2013 which the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

- (1) On October 10, 2011, Respondent submitted an application for assistance. Respondent listed [REDACTED] as his residence. Respondent indicated his benefit group consisted of himself, five children of his, and two other children.
- (2) On October 18, 2011, Respondent was approved for Food Assistance Program (FAP) benefits.

- (3) On November 8, 2011, a Notice of Case Action (DHS-1605) was sent to Respondent at a different address, [REDACTED].
- (4) On November 17, 2011, a Verification Checklist (DHS Form 3503) was sent to Respondent at the [REDACTED] address requesting a current address in order to determine his continuing Food Assistance Program (FAP) eligibility. The proof was due on November 28, 2011.
- (5) On December 27, 2011, Respondent's DHS case worker was sent an Email from Child Protective Services stating they were unable to locate Respondent and his children.
- (6) On February 1, 2012, Respondent's DHS case worker was sent an Email stating the two children in Respondent's FAP benefit group who were not his should be removed from the group.
- (7) On February 5, 2012, DHS finally closed Respondent's Food Assistance Program (FAP) case.
- (8) On September 26, 2013, the Office of Inspector General submitted this request for a hearing to disqualify Respondent from receiving Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3001-3015.

In this case, the Department has requested a disqualification hearing to establish an over-issuance of benefits as a result of an Intentional Program Violation (IPV) and the Department has asked that Respondent be disqualified from receiving benefits. Department of Human Services Bridges Administration Manual (BAM) 700 (2013) provides:

Department POLICY

When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the over-issuance (OI). This item explains OI types and standards of promptness (SOP).

PREVENTION OF OVERISSUANCES

DHS must inform clients of their reporting responsibilities and act on the information reported within the standard of promptness (sop).

OVERISSUANCE TYPES

The three different OI types are described below. Further detail is included in bam 705, 715 and 720.

Agency Error

An agency error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. Some examples are:

Available information was not used or was used incorrectly.

Policy was misapplied.

Action by local or central office staff was delayed.

Computer errors occurred.

Information was not shared between department divisions (services staff, Work First! agencies, etc.).

Data exchange reports were not acted upon timely (wage match, new hires, BENDEX, etc.).

If unable to identify the type of OI, record it as an agency error.

Client Error

A **client error** OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department.

Client Suspected Intentional Program Violation

Suspected IPV means an OI exists for which all three of the following conditions exist:

The client intentionally failed to report information **or** intentionally gave incomplete or inaccurate information needed to make a correct benefit determination.

The client was clearly instructed regarding his or her reporting responsibilities.

The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill his reporting responsibilities.

IPV is suspected when there is clear and convincing evidence that the client has **intentionally** withheld or misrepresented information for the **purpose** of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility.

In the present case, the Department had knowledge that Respondent WAS NOT at the [REDACTED] on November 8, 2011 because the Notice of Case Action (DHS-1605) of that date was sent to a different address. The Department also sent a Verification Checklist (DHS Form 3503) on November 17, 2011 seeking a physical address by November 28, 2011. Not having a physical residence in Michigan, makes an assistance recipient ineligible for benefits. On November 28, 2011 if the Department did not receive a verified physical residence, Respondent's FAP should have been closed.

Respondent's intentions are obviously suspect and the Department indicates he had previously committed fraud in order to receive assistance. However, any over-issuance beginning in December 2011 was caused by the Department's failure to act on information they had, not Respondent's failed attempt to commit fraud.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department has not established by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV) which resulted in a Food Assistance Program (FAP) over-issuance.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

The Department may not categorize any Food Assistance Program (FAP) over-issuance during this time as an Intentional Program Violation (IPV) nor can it disqualify Respondent from receipt of Food Assistance Program (FAP).

/s/
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 12/27/2013

Date Mailed: 12/30/2013

20141251/GFH

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the Respondent may appeal it to the Circuit Court for the County in which he/she lives.

GFH/sw

cc:

